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Attorneys for Plaintiffs

JOSE M. SANCHEZ BY HIS PARENT

AND NATURAL GUARDIAN DIANA MIRANDA

AND DIANA MIRANDA INDIVIDUALLY

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

JOSE M. SANCHEZ, BY HIS  
PARENT AND NATURAL  
GUARDIAN, DIANA MIRANDA,  
AND DIANA MIRANDA  
INDIVIDUALLY,

Plaintiffs,

-vs-

THE UNITED STATES OF  
AMERICA, JOSE MALDONADO,  
M.D., ANCA POPA, M.D.,  
ADAM R. BOWLING, D.O.,  
PALISADES MEDICAL CENTER,  
"JOHN/JANE DOES 1-10"  
(FICTITIOUS NAMES),  
AND/OR "ABC CORPORATIONS  
1-10" (FICTITIOUS NAMES),

CIVIL ACTION NO.:

CIVIL ACTION

**MEDICAL MALPRACTICE COMPLAINT**

**DEMAND FOR TRIAL BY JURY**

Plaintiffs, JOSE M. SANCHEZ, BY HIS PARENT AND NATURAL  
GUARDIAN, DIANA MIRANDA AND DIANA MIRANDA, INDIVIDUALLY,  
residing at 5612 Hudson Avenue in the Town of West New York,  
County of Hudson and State of New Jersey, complaining of the  
Defendants, THE UNITED STATES OF AMERICA, JOSE MALDONADO, M.D.,  
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ANCA POPA, M.D., ADAM R. BOWLING, D.O., PALISADES MEDICAL CENTER, "JOHN/JANE DOES 1-10" (fictitious names), and/or "ABC CORPORATIONS 1-10" (fictitious names) depose and say:

**NATURE OF ACTION**

This is a civil action arising from the medical care provided to Plaintiff, JOSE M. SANCHEZ, a minor, in New Jersey at Palisades Medical Center, beginning on 7/30/2013 and continuing through 7/31/2013, by certain defendants and JOSE MALDONADO, M.D., who, upon information and belief may be deemed federal employee or agent. The negligence, recklessness and professional malpractice of the Defendants, including JOSE MALDONADO, M.D. were a substantial contributing factor in causing Plaintiff's injuries.

**JURISDICTION AND VENUE**

1. This action arises under the Federal Tort Claims Act, 28 U.S.C. §§ 2671 *et seq.*, and this Court has jurisdiction under the provisions of 28 U.S.C. § 1346(b) as well as supplemental jurisdiction under the provisions of 28 U.S.C. §1367(a).

2. Venue is proper in this District, pursuant to 28 U.S.C. § 1391, because Defendants, JOSE MALDONADO, M.D., ANCA

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POPA, M.D., ADAM R. BOWLING, D.O., AND PALISADES MEDICAL CENTER, and systematically and continuously do business in this District, and because a substantial part of the events or omissions giving rise to the claims asserted herein occurred within this District.

**FIRST COUNT**

1. Plaintiff incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

2. Upon information and belief, on 07/30/13 and 07/31/2013, JOSE MALDONADO, M.D., was a physician employed at the NORTH HUDSON COMMUNITY ACTION CORPORATION, in West New York, New Jersey.

3. Upon information and belief, at all times herein, NORTH HUDSON COMMUNITY ACTION CORPORATION was a Federally Qualified Health Center.

4. Upon information and belief, while JOSE MALDONADO, M.D. was working within the scope of his employment at NORTH HUDSON COMMUNITY ACTION CORPORATION he would be deemed a federal employee for purposes of the Federal Tort Claims Act.

5. At all times material to the within cause of action, JOSE MALDONADO, M.D. was a medical doctor specializing in the

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field of Pediatric Medicine and was duly licensed to practice medicine under the laws of the State of New Jersey, having offices located at 5301 Broadway, West New York, New Jersey, or elsewhere, and as such, said physician professed and held himself out to the public, and in particular to the Plaintiff, JOSE M. SANCHEZ, as being skilled, careful and diligent in the practice of his profession as a pediatrician.

6. At all times material to the within cause of action, ANCA POPA, M.D. was a medical doctor specializing in the field of orthopedic surgery and was duly licensed to practice medicine under the laws of the State of New Jersey, having offices located at 115 River Road, Edgewater, New Jersey, or elsewhere, and as such, said Defendant professed and held herself out to the public, and in particular to the Plaintiffs, JOSE M. SANCHEZ and DIANA MIRANDA, as being skilled, careful and diligent in the practice of her profession as an orthopedic surgeon.

7. At all times material to the within cause of action, ADAM R. BOWLING, D.O. was a Doctor of Osteopathy and was duly licensed to practice medicine under the laws of the State of New Jersey, having offices located at 7600 River Road, North Bergen, New Jersey, or elsewhere, and as such, said Defendant professed and held himself out to the public, and in particular to the Plaintiff, JOSE M. SANCHEZ and DIANA MIRANDA, as being skilled,

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careful and diligent in the practice of his profession as a Doctor of Osteopathy.

8. At all times material to the within cause of action, Defendant, PALISADES MEDICAL CENTER and/or "ABC CORPORATIONS 1-10" (fictitious names), was a business entity organized and existing under the laws of the State of New Jersey, with its principal place of business located at 7600 River Road, North Bergen, New Jersey. Said Defendant held itself out to the public as a Hospital, and to the Plaintiffs, JOSE M. SANCHEZ and DIANA MIRANDA, as being fully and adequately equipped and staffed with trained expert physicians, nurses, residents and other healthcare providers capable of providing healthcare in connection with the conditions from which the Plaintiff, JOSE M. SANCHEZ, suffered during his treatment with Defendants, including JOSE MALDONANDO, M.D., who may be deemed a federal employee.

9. Upon information and belief, on 07/30/13 and 07/31/13, PALISADES MEDICAL CENTER and/or "ABC CORPORATIONS 1-10" (fictitious names) was the employer of Defendant ANCA POPA, M.D and/or "JOHN/JANE DOES 1-10" (fictitious names).

10. Upon information and belief, on 07/30/13 and 07/31/13, PALISADES MEDICAL CENTER and/or "ABC CORPORATIONS 1-10" (fictitious names) was an employer of Defendant JOSE MALDONADO,  
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M.D and/or "JOHN/JANE DOES 1-10" (fictitious names).

11. At all times herein, PALISADES MEDICAL CENTER and/or "ABC CORPORATIONS 1-10" (fictitious names) was the employer of Defendant ADAM R. BOWLING, D.O., who was a Resident at PALISADES MEDICAL CENTER.

12. At all times material to the within cause of action, "JOHN/JANE DOES 1-5" (fictitious names) were medical doctors duly licensed to practice medicine under the laws of the State of New Jersey, and as such, said Defendants professed and held themselves out to the public, and in particular to the Plaintiffs JOSE M. SANCHEZ and DIANA MIRANDA as being skilled, careful and diligent in the practice of their profession.

13. At all times material to the within cause of action, "JOHN/JANE DOES 6-10" (fictitious names), were nurses licensed to practice nursing under the laws of the State of New Jersey or other medical professionals involved in the medical care of plaintiff JOSE M. SANCHEZ between 7/30/2013 and 7/31/2013 and as such, said Defendants professed and held themselves out to the public, and in particular to the Plaintiffs JOSE M. SANCHEZ and DIANA MIRANDA, as being skilled, careful and diligent in the practice of their profession.

14. Defendant PALISADES MEDICAL CENTER is liable for the negligence of the Defendants ANCA POPA, M.D., JOSE MALDONADO,  
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M.D. and ADAM R. BOWLING, D.O., under the doctrine of *respondeat superior*, apparent authority or otherwise.

15. During the course of treating Plaintiff JOSE M. SANCHEZ and in connection with the medical services provided to him at Palisades Medical Center, beginning on 7/30/2013 and continuing through 7/31/2013, the Defendants, including JOSE MALDONADO, M.D., who may be deemed a federal employee, negligently and carelessly failed to exercise ordinary care, failed to exercise that degree of skill, diligence and care commonly exercised by other physicians/medical providers in like circumstances giving due regard to the existing state of knowledge in medicine, failed to timely and properly examine and diagnose the infant plaintiff, failed to consult with appropriate medical specialists, failed to perform a proper physical examination of the infant plaintiff, failed to properly treat and/or stabilize the infant Plaintiff and his conditions, and were otherwise negligent, careless, and reckless in the diagnosis, treatment, and care of Plaintiff.

16. As a result of the carelessness, recklessness and negligence as well as the failure to adhere to accepted medical standards by defendants, including JOSE MALDONADO, M.D., who may be deemed a federal employee, plaintiffs JOSE M. SANCHEZ and DIANA MIRANDA, suffered severe and painful permanent injuries.

17. On March 27, 2015, plaintiffs submitted their claim for a definite amount to the United States Department of Health & Human Services, Public Health Service Claims Office.

18. On August 19, 2015, the United States Department of Health & Human Services, Public Health Service denied Plaintiffs' administrative tort claims and, pursuant to 28 U.S.C. §2401(b), plaintiff brings this suit against the United States of America within six (6) months from the date of notice of final denial of the claim.

19. The named and fictitiously named defendants and the deemed federal employee are jointly and severally liable.

20. As a direct and proximate result of the negligence, recklessness and professional malpractice of Defendants, including JOSE MALDONADO, M.D., who may be deemed a federal employee or agent, as aforesaid, the Plaintiff sustained great pain and suffering of the mind and body, has and did sustain permanent bodily injuries, has and did incur medical expenses in order to correct the conditions caused by the Defendants and the deemed federal employee, has and was unable to attend to his ordinary routine, employment and affairs and was otherwise damaged.

**WHEREFORE**, Plaintiff, JOSE M. SANCHEZ, BY HIS PARENT AND NATURAL GUARDIAN, DIANA MIRANDA AND DIANA MIRANDA, INDIVIDUALLY,  
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demand judgment against the Defendants THE UNITED STATES OF AMERICA, JOSE MALDONADO, M.D., ANCA POPA, M.D., ADAM R. BOWLING, D.O., PALISADES MEDICAL CENTER, "JOHN/JANE DOES 1-10" (fictitious names), and/or "ABC CORPORATIONS 1-10" (fictitious names), in the amount of his damages, together with attorney's fees, interest and costs of suit.

**SECOND COUNT**

1. Plaintiff incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

2. At all times material to the within cause of action, plaintiff JOSE M. SANCHEZ was a pediatric patient.

3. Upon information and belief, PALISADES MEDICAL CENTER's protocols require that pediatric patients be admitted to the hospital under the service of a pediatrician.

4. Upon information and belief, PALISADES MEDICAL CENTER attempted to have plaintiff JOSE M. SANCHEZ, a minor, admitted to the hospital under the service of Defendant JOSE MADLONADO, M.D., who may be deemed a federal employee or agent.

5. Upon information and belief, said JOSE MALDONADO, M.D. refused to accept admission of plaintiff JOSE M. SANCHEZ to the hospital under his service, despite examining plaintiff in the Emergency Room, and did not make an effort to have plaintiff

admitted under the service of another pediatrician.

6. In failing to admit plaintiff JOSE M. SANCHEZ to PALISADES MEDICAL CENTER under his service or the service of another pediatrician; JOSE MALDONAD, M.D. deviated from the generally accepted standard of care and acted with deliberate indifference to the safety, interests, and well-being of this plaintiff.

7. Furthermore, upon information and belief, JOSE MALDONADO, M.D. acted with deliberate indifference to the safety, interests, and well-being of plaintiff JOSE M. SANCHEZ by failing to communicate the seriousness of this plaintiff's medical condition to the appropriate medical specialists.

8. The deliberate indifference of JOSE MALDONADO, M.D. exposed plaintiff JOSE M. SANCHEZ to great risk of serious harm, loss of tissue, loss of limb, and death.

9. As a direct and proximate result of the deliberate indifference of JOSE MALDONADO, M.D., as aforesaid, plaintiff JOSE M. SANCHEZ sustained great pain and suffering of the mind and body, has and did sustain permanent bodily injuries, has and did incur medical expenses in order to correct the conditions caused by JOSE MALDONADO, M.D., has and was unable to attend to his ordinary routine, employment and affairs and was otherwise damaged.

**WHEREFORE**, Plaintiff, JOSE M. SANCHEZ, BY HIS PARENT AND NATURAL GUARDIAN, DIANA MIRANDA AND DIANA MIRANDA, INDIVIDUALLY, demand judgment against the Defendants, JOSE MALDONADO, M.D. and THE UNITED STATES OF AMERICA for punitive damages and such other relief as the Court deems just and equitable.

**THIRD COUNT**

1. Plaintiff incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

2. Upon information and belief, defendant ANCA POPA, M.D. became aware on 7/30/2013 that plaintiff JOSE M. SANCHEZ, a minor, was a pediatric patient at PALISADES MEDICAL CENTER who had a life threatening injury.

3. Upon information and belief, defendant ANCA POPA, M.D. refused to examine and treat the plaintiff in a timely manner.

4. By failing to examine and treat plaintiff JOSE M. SANCHEZ in a timely manner, defendant ANCA POPA, M.D. acted with deliberate indifference to the safety, interests, and well-being of this plaintiff.

5. The deliberate indifference of this defendant exposed plaintiff JOSE M. SANCHEZ to great risk of serious harm, loss of tissue, loss of limb, and death.

6. As a direct and proximate result of the deliberate indifference of this defendant, as aforesaid, plaintiff JOSE M. SANCHEZ sustained great pain and suffering of the mind and body, has and did sustain permanent bodily injuries, has and did incur medical expenses in order to correct the conditions caused by the Defendant, has and was unable to attend to his ordinary routine, employment and affairs and was otherwise damaged.

**WHEREFORE**, Plaintiff, JOSE M. SANCHEZ, BY HIS PARENT AND NATURAL GUARDIAN, DIANA MIRANDA AND DIANA MIRANDA, INDIVIDUALLY, demand judgment against the Defendant, ANCA POPA, M.D., for punitive damages and such other relief as the Court deems just and equitable.

#### **FOURTH COUNT**

1. Plaintiff incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

2. At all times relevant herein, Plaintiff DIANA MIRANDA was/is the parent of infant plaintiff JOSE M. SANCHEZ.

3. As a direct and proximate result of the negligence and professional malpractice of the Defendants, including JOSE MALDONADO, M.D., who may be deemed a federal employee or agent, as aforesaid, the Plaintiff JOSE M. SANCHEZ, a minor, sustained

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serious bodily injury resulting in great pain and suffering of the mind and body, and will continue to suffer in the future from these serious and permanent injuries.

4. That Plaintiff DIANA MIRANDA did and will observe injury to her son JOSE M. SANCHEZ.

5. As a direct and proximate result, the plaintiff DIANA MIRANDA has suffered and will suffer severe emotional distress.

**WHEREFORE**, Plaintiff DIANA MIRANDA hereby demands judgment against the Defendants THE UNITED STATES OF AMERICA, JOSE MALDONADO, M.D., ANCA POPA, M.D., ADAM R. BOWLING, D.O., PALISADES MEDICAL CENTER, "JOHN/JANE DOES 1-10" (fictitious names), and/or "ABC CORPORATIONS 1-10" (fictitious names), in the amount of her damages, together with attorney's fees, interest and costs of suit.

**LYNCH LYNCH HELD ROSENBERG, P.C.**  
Attorneys for Plaintiffs  
JOSE M. SANCHEZ, BY HIS PARENT AND  
NATURAL GUARDIAN, DIANA MIRANDA  
AND DIANA MIRANDA, INDIVIDUALLY,

By: 

JAMES S. LYNCH, ESQ.

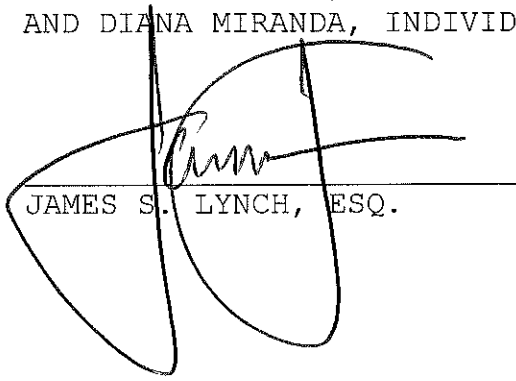
Dated: October 15, 2015

**DEMAND FOR TRIAL BY JURY**

Plaintiffs hereby demand a trial by jury, pursuant to Fed.  
R. Civ. P. 38(b), on all issues.

**LYNCH LYNCH HELD ROSENBERG, P.C.**  
Attorneys for Plaintiffs  
JOSE M. SANCHEZ, BY HIS PARENT AND  
NATURAL GUARDIAN, DIANA MIRANDA  
AND DIANA MIRANDA, INDIVIDUALLY,

By:

  
JAMES S. LYNCH, ESQ.

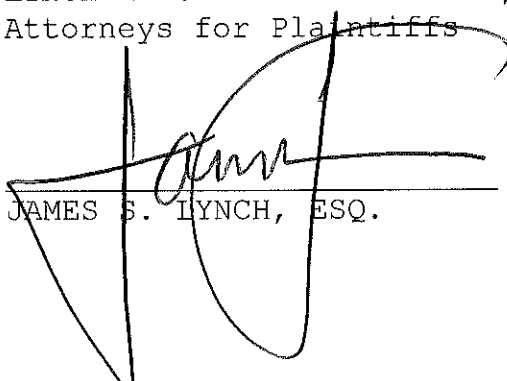
Dated: October 15, 2015

**DEMAND FOR TRANSCRIPTION AND OFFICE RECORDS**

Plaintiffs hereby demand that the Defendants produce a  
certified copy of all office records, telephone calls, billing  
and payments as well as a typed transcription of any and all of  
his/her handwritten office records and/or hospital records,  
within thirty (30) days of service of the Complaint.

**LYNCH LYNCH HELD ROSENBERG, P.C.**  
Attorneys for Plaintiffs

By:

  
JAMES S. LYNCH, ESQ.

Dated: October 15, 2015

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**CERTIFICATION PURSUANT TO CIV. RULE 11.2**

The undersigned certifies that the within matters in controversy are related to a pending matter in Superior Court of the State of New Jersey with the following caption:

JOSE M. SANCHEZ BY HIS PARENT AND  
NATURAL GUARDIAN DIANA MIRANDA  
AND DIANA MIRANDA INDIVIDUALLY,  
Plaintiff(s)

-vs-

ANCA POPA, M.D., ADAM R. BOWLING,  
D.O., JOSE MALDONADO, M.D.,  
PALISADES MEDICAL CENTER, "JOHN  
DOES 1-10" (FICTITIOUS NAMES),  
AND/OR "ABC CORPORATIONS 1-10"  
(FICTITIOUS NAMES), and/or "JOHN  
DOES  
1-10" (fictitious names),

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: HUDSON COUNTY

Docket No. HUD-L-724-15

CIVIL ACTION

MEDICAL MALPRACTICE

Said State Court action included JOSE MALDONADO, M.D. as a named defendant. Soon thereafter, the undersigned learned that JOSE MALDONADO, M.D. may be deemed a federal employee under the Federal Tort Claims Act, pursuant to his employment at a Federally Qualified Health Center (FQHC), even though the events at issue arose at Palisades Medical Center. A Stipulation of

Dismissal Without Prejudice against defendants Anca Popa, M.D., Adam R. Bowling, D.O., and Palisades Medical Center with Waiver of any Statute of Limitations Defenses has been fully executed by all parties and will be filed simultaneously with the filing of this federal action. The claims in the State Court action against JOSE MALDONADO, M.D. will be dismissed without prejudice on October 20, 2015.

**LYNCH LYNCH HELD ROSENBERG, P.C.**

Attorneys for Plaintiffs

JOSE M. SANCHEZ, BY HIS PARENT AND  
NATURAL GUARDIAN, DIANA MIRANDA  
AND DIANA MIRANDA, INDIVIDUALLY,

By: 

JAMES S. LYNCH, ESQ.

Dated: October 15, 2015